

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

U.S. BANK TRUST, N.A., as)	
TRUSTEE FOR LSF9 MASTER)	
PARTICIPATION TRUST,)	
)	
Plaintiff)	
)	
)	
v.)	No. 2:20-cv-00171-DBH
)	
LEE A. PLUMMER,)	
)	
Defendant)	

**MEMORANDUM DECISION AND ORDER ON MOTION
FOR SERVICE BY PUBLICATION**

In December 2020, the plaintiff in this mortgage foreclosure action filed a motion seeking to serve the defendant by publication. *See* [Plaintiff’s First] Motion for Alternate Service via Publication Upon Defendant, Lee A. Plummer (ECF No. 16). I denied that motion on the showing made, concluding that the plaintiff had not shown due diligence in attempting to locate the defendant and had failed to supply the requisite proposed order required by Maine law. *See* Memorandum Decision and Order on Motion for Service by Publication (“Previous Order”) (ECF No. 17) at 1, 6-7; Me. R. Civ. P. 4(g)(1) (providing that any motion for alternate service shall be supported by, among other things, “a draft, proposed order to provide the requested service by alternate means”); Me. R. Civ. P. 4(g)(2) (outlining the required contents of such a proposed order).¹ In my previous order, I specifically instructed the plaintiff to provide a proposed order with any renewed motion for service by publication. *See* Previous Order at 7 (“Should [the

¹ My previous order provides a more detailed recitation of the law pertaining to service by publication in Maine. *See* Previous Order at 1-2.

plaintiff] desire to renew this motion, *it should attach the above-referenced draft order . . .*” (emphasis added)).

The plaintiff again seeks leave to serve the defendant by publication. *See* [Plaintiff’s Second] Motion for Alternate Service via Publication Upon Defendant, Lee A. Plummer (“Renewed Motion”) (ECF No. 26); Exhibits A-J (ECF Nos. 26-2 to 26-11), attached thereto. The plaintiff’s renewed motion, however, is unaccompanied by the proposed order required by Maine law and dictated by my previous order.² For this reason, the renewed motion is **DENIED** without prejudice. If the plaintiff wishes to renew its motion again, it should – consistent my previous order – provide the requisite proposed order as well as an updated affidavit of counsel recounting its search efforts. *See* Previous Order at 6-7.

NOTICE

In accordance with Federal Rule of Civil Procedure 72(a), a party may serve and file an objection to this order within fourteen (14) days after being served with a copy thereof.

Failure to file a timely objection shall constitute a waiver of the right to review by the district court and to any further appeal of this order.

Dated this 26th day of September, 2021.

/s/ John H. Rich III
John H. Rich III
United States Magistrate Judge

² Among the exhibits attached to the plaintiff’s renewed motion is an order permitting service of the defendant by publication in a Cumberland County Probate Court case. *See* Exhibit J (ECF No. 26-11). The plaintiff, however, cites to the probate court order only in the context of outlining its search efforts for the defendant and does not suggest that the probate court order could serve a proposed order in this case. *See* Affidavit in Support of Motion for Alternate Service via Publication Upon Defendant, Lee A. Plummer (ECF No. 26-1) at 4-5; Statement of Material Facts (ECF No. 26-12) at 4-5. Nor could an order tailored to a wholly different case in a wholly different court serve as a proposed order in this case, especially where it does not appear to contain all the information required by Me. R. Civ. P. 4(g)(2). *See* Exhibit J.